

### **REMARKS**

This response is being filed in reply to the Office Action mailed on December 20, 2006. In that Office Action, claims 21-40 were rejected on prior art grounds. Claims 1-20 have been cancelled previously and claims 21-40 remain pending in the application.

#### **Rejections under §103(a)**

Claims 21, 23-31, and 33-40 stand rejected under 35 U.S.C. §103(a) as being obvious over Godfrey et al. (US Publication 2005/0070079) in view of Tzamaloukas (US 6,925,378). Claim 23 also stands rejected under 35 U.S.C. §103(a) as being obvious over Godfrey in view of Tzamaloukas, and further in view of Wledeman (EP Application 0866509 A2). Claims 22 and 32 stand rejected under 35 U.S.C. §103(a) as being obvious over Godfrey in view of Tzamaloukas, and further in view of Bennett (US 6,977,612). Applicants respectfully traverse the rejections for the reasons discussed below.

With regard to the claims, the prior art of record does not disclose or render obvious the subject matter of independent claims 21, 29, and 38. Godfrey discloses a stolen vehicle tracking system utilizing a roadside hub as an access point to communicate a vehicle's current location from a vehicle to a server.<sup>1</sup> The vehicle communicates to the roadside hub via a Dedicated Short Range Communications (DSRC) network, e.g., IEEE 802.11a or 802.16g<sup>2</sup> for purposes such as tracking and/or vehicle control. According to the last Office Action, it would have been obvious to combine the teachings of Godfrey with that of Tzamaloukas so that, rather than communicating from a vehicle to a server via a roadside hub in a DSRC network, the modified Godfrey system would instead operate so that a remote vehicle detects a wireless modem unit within another vehicle as a wireless access point to communicate with the server.

Although Tzamaloukas teaches different wireless communication technologies than are used by Godfrey, it would not have been obvious to use Godfrey's DSRC for one link and Tzamaloukas's technologies for the other link because Godfrey specifically

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<sup>1</sup> Godfrey, US Pub. No. 2005/0071079, Par. 0012, Ins. 8 – Par. 0013, ln 3.

<sup>2</sup> *id.* at Par. 0034, Ins 1-11.

discourages the use of these other types of wireless communication. Tzamaloukas teaches that the vehicle-to-central server communication is a cellular phone link, line-of-sight microwave link, or a satellite link.<sup>3</sup> Godfrey specifically teaches away from using these for communicating a vehicle's position to the server.

Godfrey criticizes the vehicle to server communication taught in Tzamaloukas. Specifically, Godfrey criticizes tracking systems using cellular networks such as the one taught in Tzamaloukas because "it is suboptimal for handling relatively infrequent GPS messages at lower information rates"<sup>4</sup> and also because "the coverage footprint of each DSRC access point will tend to be smaller than each 'cell' in a cellular network, which improves the localizing of a vehicle when GPS signals are unreliable."<sup>5</sup> Godfrey also criticizes satellite-type communication as taught in Tzamaloukas because "signals from satellites cannot be received in certain environments such as indoors parking garages and tunnels."<sup>6</sup> Godfrey's criticism of satellite communication would also apply to Tzamaloukas's teaching of satellite communication and a line-of-sight microwave link between vehicles and a central server, because, like GPS satellite communications, the satellite communications and the line-of-sight microwave link could not be received in certain situations such as indoor parking garages and tunnels. The combination suggested by the Examiner would modify Godfrey to utilize communication methods criticized in Godfrey and for which the system in Godfrey was designed to avoid. Therefore, it would not have been obvious to use Godfrey's DSRC for one link and Tzamaloukas's technologies for the other link because Godfrey specifically discourages the use of these other types of wireless communication.

For all of these reasons, the Office Action has therefore not provided a proper basis for combining Godfrey and Tzamaloukas. Thus, because the combination of Godfrey and Tzamaloukas are the basis of the rejections of claims 21-40, the rejection should be withdrawn and these claims allowed.

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<sup>3</sup> Tzamaloukas, US Pat. No. 6,925,378, Col. 4, lns 26-32.

<sup>4</sup> Godfrey at Par. 0010, lns. 1-10.

<sup>5</sup> Godfrey at Par. 0017, lns. 10-13.

<sup>6</sup> *id.* at Par. 0010, lns. 11-13.

Even if there was a motivation to combine Godfrey with Tzamaloukas, the resulting combination would not satisfy all of the claim limitations of the independent claims. As discussed in more detail below, Godfrey's teachings would require that any combination of Godfrey with Tzamaloukas use the short-range DSRC taught in Godfrey to communicate between a vehicle and the server. The resulting combination would not satisfy all of the claim limitations of the independent claims 21, 29, and 38.

The combination suggested as the basis for the rejection of claim 23 is also improper. Dependent claim 23 was rejected over Godfrey in view of Tzamaloukas and in further view of Wledeman. In addition to the improper combination of Godfrey and Tzamaloukas, the further combination of Wledeman is also improper. Godfrey teaches away from the combination with Wledeman suggested by the Examiner. Wledeman teaches a satellite communication system that provides a plurality of gateways for a user terminal.<sup>7</sup> As noted above, Godfrey teaches the benefit for vehicle tracking of DSRC instead of other communication approaches such as satellite communication. Likewise, Wledeman's use of satellite communication from a vehicle would result in the similar problems criticized in Godfrey- i.e., obstructed communication in certain environments. Therefore, the Office Action has not provided a proper basis for combining Godfrey, Tzamaloukas, and Wledeman and as such, claim 23 should be allowed.

### **Independent Claim 21**

Apart from the improper combination of references, independent claim 21 includes limitations not disclosed or rendered obvious by Godfrey or Tzamaloukas, whether considered singly or in combination. Claim 21 is directed to a method of operating a vehicle telematics device as a communication gateway and recites a number of steps, including the step of "establishing communication between the vehicle telematics device on the primary vehicle and a service provider through a *second communication protocol for which the secondary vehicle is not equipped*." This feature in combination with the remainder of the claim is not disclosed or suggested by the prior art of record.

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<sup>7</sup> Wledeman et al., EP Application No. 0866569 A2, Abstract, lns 1-6.

Godfrey does not disclose establishing *communication between the vehicle telematics device on the primary vehicle and a service provider through a second communication protocol for which the secondary vehicle is not equipped*. The Examiner cited paragraphs 38 and 70 of Godfrey as disclosing “a service provider utilizing a second communication protocol not supported by the secondary vehicle.”<sup>8</sup> The cited portions of Godfrey merely state that the “server 204 might communicate with access point 203 via the internet,” but does not state that the access point (roadside hub) communicates using a second communication protocol not supported by the secondary vehicle.<sup>9</sup> Moreover, this teaching in Godfrey is not applicable to Applicant’s above quote feature from claim 21 because the cited excerpt is not in reference to a communication between a vehicle telematics device on a vehicle and a service provider as required in claim 21, but is instead limited to communication between a roadside hub and a server. Likewise, the reference to the fibre channel interface referred to by the Examiner in the last Office Action does not relate to communication to or from a vehicle. Rather, Godfrey merely discloses that the *server* might communicate with *database* via a fibre channel interface.<sup>10</sup> Therefore, Godfrey does not disclose establishing communication between the vehicle telematics device on the primary vehicle and a service provider through a second communication protocol for which the secondary vehicle is not equipped.

Tzamaloukas does not overcome the deficiencies in Godfrey. Specifically, Tzamaloukas does not disclose the combination of (a) the primary vehicle communicating with a service provider through one protocol and (b) the second vehicle communicating with the primary vehicle through another protocol, but not being equipped to communicate with the primary vehicle using the one protocol that the primary vehicle uses to communicate with the service provider. Rather, Tzamaloukas teaches that the participating vehicles communicate with the central server via a wireless wide area network link<sup>11</sup> and that the participating vehicles may communicate with fixed egress points or other participating vehicles acting as mobile egress points.<sup>12</sup> As

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<sup>8</sup> Office Action dated Dec. 20, 2006, Page 4, Ins. 14-18.

<sup>9</sup> Godfrey at Par. 0038, Ins. 6-7.

<sup>10</sup> *id.* at Par. 0038, Ins. 7-9.

<sup>11</sup> Tzamaloukas at Col. 4, ls 25-32.

<sup>12</sup> *id.* at Col. 3 Ins 25-38.

indicated in the GPS location example at Col. 7, line 39 through Col. 8, a participating vehicle having GPS but unable to determine its position (e.g., because of tall buildings), can use dead reckoning as well as link quality information from nearby wireless access points to determine its location. Thus, it is not that the vehicles do not have GPS capability, but that it cannot temporarily be used in which case the wireless links to other vehicles are used. Thus, even those vehicles communicating with another vehicle have GPS.

Moreover, even if Godfrey were modified as a result of the teachings in Tzamaloukas, it is apparent that Godfrey would still utilize DSRC communication between vehicles and between vehicles and the server because of the reasons specified in Godfrey. As discussed above, Godfrey criticizes the technologies taught in Tzamaloukas for communicating between the vehicle and the server, e.g., the use of cellular communication, satellite communication, and indirectly, line-of-sight microwave links. Godfrey teaches that cellular communication is inefficient, and that satellite communication (and therefore, line-of-sight microwave links) does not work in some environments. To overcome these disadvantages, Godfrey specifically teaches that the communication between the vehicle and the server is via the DSRC. Applying these teachings, and modifying the system in Godfrey with the teachings of Tzamaloukas would require the communication between vehicles and between the vehicle and the server to utilize the DSRC.

The resulting combination would not establish communication between a primary vehicle and a service provider through a second communication protocol for which the secondary vehicle is not equipped as required in claim 21. Both a primary and a secondary vehicle would be equipped to communicate via the DSRC with one another. The primary vehicle would also have to communicate with the server via the DSRC. As a result, the resulting combination would not establish communication through a second communication protocol for which the secondary vehicle was not equipped.

Accordingly, Tzamaloukas does not make up for the above-noted deficiencies of Godfrey and claim 21 therefore patentably defines over the combination of these

references. Claims 22-28 each ultimately depend from claim 21 and should be allowed therewith.

### **Dependent Claim 22**

Dependent claim 22 is also separately patentable because the prior art does not disclose that the receiving step *is carried out in response to a polling message transmitted from the primary vehicle* as recited in claim 22. The Examiner rejected claim 22 under 35 U.S.C. § 103(a) over Godfrey in view of Tzamaloukas and in further view of Bennett. The Examiner noted that the combination of Godfrey and Tzamaloukas “fails to disclose wherein the receiving step is carried out in response to a polling message transmitted from the primary vehicle.”<sup>13</sup> Instead, the Examiner relied on Bennett as “disclosing receiving carried out in response to a polling message.”<sup>14</sup>

Applicant respectfully requests that Examiner withdraw the rejection because Bennett is not prior art with respect to Applicant’s invention. *Applicant’s U.S. filing date* of March 25, 2004 *pre-dates Bennett’s priority date* (U.S. filing date) of June 29, 2004. Therefore, because the cited Bennett reference does not qualify as prior art and the remaining references do not disclose all of the limitations of claim 22, claim 22 should be allowed therewith.

### **Dependent Claim 28**

Dependent claim 28 is also separately patentable because the prior art does not disclose that the steps of:

*receiving instructions in the form of a data stream from the vehicle telematics device of the primary vehicle; and*

*executing the instructions using one or more programs stored on the secondary vehicle.*

The Examiner cited Godfrey as disclosing these steps. But the paragraphs cited by the Examiner do not teach or suggest receiving instructions from a primary vehicle or

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<sup>13</sup> Office Action, Page 9, lns. 11-13.

executing the instructions using programs *stored on the secondary vehicle*. Rather the paragraphs cited by the Examiner are merely focused on the components and actions of the roadside hub and the server. For example, paragraphs 52 & 53 discuss the processor of the access point 203, and not the vehicle 101 or station 202. Likewise, paragraphs 56-61 discuss the server's components and functionality and not the vehicle 101 or station 202. Moreover, Godfrey does not discuss receiving instructions at the secondary vehicle provided from a vehicle telematics device of a primary vehicle. Therefore, because the references do not disclose all of the limitations of claim 28, claim 28 should be allowed therewith.

### **Independent Claim 29**

Similar to claim 21, independent claim 29 calls for *establishing communication between the vehicle telematics device on the primary vehicle and a service provider utilizing a second communication protocol not supported by the secondary vehicle*. Therefore, for reasons similar to those discussed above in conjunction with claim 21, this step is neither disclosed nor suggested by the prior art of record. Claims 30-37 each ultimately depend from claim 29. In view of claim 29 and at least for the reasons articulated above, the Applicant respectfully submits that claims 29-37 are patentable over the prior art.

### **Dependent Claim 32**

Dependent claim 32 is also separately patentable because, similar to claim 22, claim 32 calls for the detecting step further comprising *receiving a transmission at the vehicle telematics device on the primary vehicle in response to a polling message transmitted from the primary vehicle*. Claim 32 was rejected over Godfrey in view of Tzamaloukas and in further view of Bennett. As noted above in reference to claim 22, ***Bennett does not qualify as prior art***. Therefore, because Bennett is not qualified as prior art as discussed in reference to claim 22, and for reasons similar to those discussed above in conjunction with claim 22, this step is neither disclosed nor suggested by the

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<sup>14</sup> *id.* at Page 9, lns. 14-15.

prior art of record. In view of claim 32 and at least for the reasons articulated above, the Applicant respectfully submits that claim 32 is patentable over the prior art.

#### **Dependent Claims 34 and 35**

Dependent claims 34 and 35 are also separately patentable because, similar to claim 28, claims 34 and 35 call for receiving a data stream for the secondary vehicle, the data stream including instructions for the secondary vehicle, and implementing the received instructions at the secondary vehicle. For reasons similar to those of claim 28, Applicant respectfully submits that claims 34 and 35 are patentable over the prior art.

#### **Independent Claim 38**

Similar to claim 21, independent claim 38 calls *establishing communication between the vehicle telematics device on the primary vehicle and a service provider utilizing a second communication protocol not enabled on the secondary vehicle*. Therefore, for reasons similar to some of those discussed above in conjunction with claim 21, this step is neither disclosed nor suggested by the prior art of record.

Additionally, claim 38 calls for *communicating triggers to the secondary vehicle from the service provider via the primary vehicle*. The Examiner cited paragraphs 59-68 of Godfrey as disclosing communicating triggers to the secondary vehicle from the service provider via the primary vehicle. Applicant respectfully disagrees. First, as noted above, Godfrey does not disclose using a primary vehicle to provide a communication gateway to a service provider for a secondary vehicle. Rather, Godfrey is limited to using a roadside hub as an access point.

Additionally, although providing triggers to a vehicle from a service provider is known, none of the references cited by the Examiner teach or suggest communicating the triggers via another vehicle. For all of these reasons, this step is neither disclosed nor suggested by the prior art of record. Claims 39 and 40 each ultimately depend from claim 38. In view of claim 38 and at least for the reasons articulated above, the Applicant respectfully submits that claims 38-40 are patentable over the prior art.

**Dependent Claim 39**

Dependent claim 39 is also separately patentable because, similar to claim 28, claim 39 calls for *receiving instructions in the form of a data stream from the primary vehicle at the secondary vehicle; and executing the instructions upon activation of the communicated triggers*. For reasons similar to those of claim 28, Applicant respectfully submits that claim 39 is patentable over the prior art.

**Dependent Claim 40**

Dependent claim 40 is also separately patentable because, similar to claim 28, claim 40 calls for the step of *triggering the secondary vehicle to provide diagnostic data to the service provider via the primary vehicle*. The Office Action cited Godfrey as disclosing this step. But the cited references in Godfrey do not disclose providing diagnostic data to the server. The cited references merely disclose transmitting signals to the station 202 to control the engine, horn, or other vehicle components and not transmitting diagnostic data from the vehicle to a service provider. Therefore, because the prior art does not teach or suggest every element of claim 40, Applicant respectfully submits that claim 40 is patentable over the prior art.

**Conclusion**

Accordingly, Applicants respectfully submit that independent claims 21, 29, and 38 each patentably define over the prior art. Claims 22-28, 30-37, and 39-40 each ultimately depend from one of these claims and should be allowed therewith.

In view of the foregoing, reconsideration is requested. The Examiner is invited to telephone the undersigned if doing so would advance prosecution of this case.

The Commissioner is hereby authorized to charge Deposit Account No. 07-0960 for any other required fees or to credit that same deposit account with any overpayment associated with this communication.

Respectfully submitted,

REISING, ETHINGTON, BARNES, KISSELLE, P.C.

/James D. Stevens/

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